

PART 1206—ASSESSMENTS

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§ 1206.1 Purpose.

This part sets forth the policy and procedures of the FHFA with respect to the establishment and collection of the assessments of the Regulated Entities under 12 U.S.C. 4516.

§ 1206.2 Definitions.

As used in this part:

Act means the Federal Housing Finance Regulatory Reform Act of 2008.

Adequately capitalized means the adequately capitalized capital classification under 12 U.S.C. 1364 and related regulations.

Director means the Director of the Federal Housing Finance Agency or his or her designee.

Enterprise means the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; and “Enterprises” means, collectively, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

Federal Home Loan Bank, or *Bank*, means a Federal Home Loan Bank established under section 12 of the Federal Home Loan Bank Act (12 U.S.C. 1432).

FHFA means the Federal Housing Finance Agency.

Minimum required regulatory capital means the highest amount of capital necessary for a Bank to comply with any of the capital requirements established by the Director and applicable to it.

Regulated Entity means the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or any of the Federal Home Loan Banks.

Surplus funds means any amounts that are not obligated as of September 30 of the fiscal year for which the assessment was made.

Total exposure means the sum, as of the most recent June quarterly minimum capital report of the Enterprise, of the amounts of the following assets and off-balance sheet obligations that are used to calculate the quarterly minimum capital requirement of the Enterprise under 12 CFR part 1750:

- (1) On-balance sheet assets;
- (2) Guaranteed mortgage-backed securities; and
- (3) Other off-balance sheet obligations as determined by the Director.

Working capital fund means an account for amounts collected from the Regulated Entities to establish an operating reserve that is intended to provide for the payment of large or multiyear capital and operating expenditures, as well as unanticipated expenses.

§ 1206.3 Annual assessments.

(a) *Establishing assessments.* The Director shall establish annual assessments on the Regulated Entities in an amount sufficient to maintain a working capital fund and provide for the payment of the FHFA’s costs and expenses, including, but not limited to:

- (1) Expenses of any examinations under 12 U.S.C. 4517 and section 20 of the Federal Home Loan Bank Act (12 U.S.C. 1440);
- (2) Expenses of obtaining any reviews and credit assessments under 12 U.S.C. 4519;
- (3) Expenses of any enforcement activities under 12 U.S.C. 3645;
- (4) Expenses of other FHFA litigation under 12 U.S.C. 4513;
- (5) Expenses relating to the maintenance of the FHFA records relating to examinations and other reviews of the Regulated Entities;
- (6) Such amounts in excess of actual expenses for any given year deemed necessary to maintain a working capital fund;
- (7) Expenses relating to monitoring and ensuring compliance with housing goals;
- (8) Expenses relating to conducting reviews of new products;

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(9) Expenses related to affordable housing and community programs;

(10) Other administrative expenses of the FHFA;

(11) Expenses related to preparing reports and studies;

(12) Expenses relating to the collection of data and development of systems to calculate the House Price Index (HPI) and the conforming loan limit;

(13) Amounts deemed necessary by the Director to wind up the affairs of the Office of Federal Housing Enterprise Oversight and the Federal Housing Finance Board; and

(14) Expenses relating to other responsibilities of the FHFA under the Safety and Soundness Act, the Federal Home Loan Bank Act and the Act.

(b) *Allocating assessments.* The Director shall allocate the annual assessments as follows:

(1) *Enterprises.* Assessments collected from the Enterprises shall not exceed amounts sufficient to provide for payment of the costs and expenses relating to the Enterprises as determined by the Director. Each Enterprise shall pay a proportional share that bears the same ratio to the total portion of the annual assessment allocated to the Enterprises that the total exposure of each Enterprise bears to the total exposure of both Enterprises.

(2) *Federal Home Loan Banks.* Assessments collected from the Banks shall not exceed amounts sufficient to provide for payment of the costs and expenses relating to the Banks as determined by the Director. Each Bank shall pay a *pro rata* share of the annual assessments based on the ratio between its minimum required regulatory capital and the aggregate minimum required regulatory capital of every Bank.

(c) *Timing and amount of semiannual payment.* Each Regulated Entity shall pay on or before October 1 and April 1 an amount equal to one-half of its annual assessment.

(d) *Surplus funds.* Surplus funds shall be credited to the annual assessment by reducing the amount collected in the following semiannual period by the amount of the surplus funds. Surplus funds shall be allocated to all Regulated Entities in the same proportion

in which they were collected, except as determined by the Director.

§ 1206.4 Increased costs of regulation.

(a) *Increase for inadequate capitalization.* The Director may, at his or her discretion, increase the amount of a semiannual payment allocated to a Regulated Entity that is not classified as adequately capitalized to pay additional estimated costs of regulation of that Regulated Entity.

(b) *Increase for enforcement activities.* The Director may, at his or her discretion, adjust the amount of a semiannual payment allocated to a Regulated Entity to ensure that the Regulated Entity bears the estimated costs of enforcement activities under the Act related to that Regulated Entity.

(c) *Additional assessment for deficiencies.* At any time, the Director may make and collect from any Regulated Entity an assessment, payable immediately or through increased semiannual payments, to cover the estimated amount of any deficiency for the semiannual period as a result of increased costs of regulation of a Regulated Entity due to its classification as other than adequately capitalized, or as a result of enforcement activities related to that Regulated Entity. Any amount remaining from such additional assessment and the semiannual payments at the end of any semiannual period during which such an additional assessment is made shall be deducted *pro rata* (based upon the amount of the additional assessments) from the assessment for the following semiannual period for that Regulated Entity.

§ 1206.5 Working capital fund.

(a) *Assessments.* The Director shall establish and collect from the Regulated Entities such assessments he or she deems necessary to maintain a working capital fund.

(b) *Purposes.* Assessments collected to maintain the working capital fund shall be used to establish an operating reserve and to provide for the payment of large or multiyear capital and operating expenditures as well as unanticipated expenses.

(c) *Remittance of excess assessed funds.* At the end of each year for which an assessment under this section is made,